

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Valentina Concha-Toro	Team: Squad #15	CCRB Case #: 201905096	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 05/26/2019 4:53 AM	Location of Incident: § 87(2)(b)	Precinct: 115	18 Mo. SOL 11/26/2020	EO SOL 7/13/2021	
Date/Time CV Reported Wed, 06/12/2019 2:07 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 06/12/2019 2:07 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
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§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Scott Hampton	01822	960635	115 PCT
2. POM Arkim Jordan	21101	964080	115 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Scott Hampton	Abuse: Police Officer Scott Hampton entered § 87(2)(b) in Queens	§ 87(2)(b)
B.POM Arkim Jordan	Abuse: Police Officer Arkim Jordan entered § 87(2)(b) in Queens	§ 87(2)(b)
C.POM Scott Hampton	Abuse: Police Officer Scott Hampton threatened to issue summons to § 87(2)(b)	§ 87(2)(b)
D.POM Scott Hampton	Abuse: Police Officer Scott Hampton entered § 87(2)(b) in Queens.	§ 87(2)(b)
E.POM Arkim Jordan	Abuse: Police Officer Arkim Jordan entered § 87(2)(b) in Queens.	§ 87(2)(b)
F.POM Scott Hampton	Abuse: Police Officer Scott Hampton threatened to arrest § 87(2)(b)	§ 87(2)(b)
G.POM Scott Hampton	Abuse: Police Officer Scott Hampton threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
H.POM Scott Hampton	Abuse: Police Officer Scott Hampton threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
I.POM Scott Hampton	Abuse: Police Officer Scott Hampton threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
J.POM Scott Hampton	Abuse: Police Officer Scott Hampton threatened § 87(2)(b) with the use of force.	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
K.POM Scott Hampton	Abuse: Police Officer Scott Hampton threatened § 87(2)(b) with the use of force.	
L.POM Scott Hampton	Abuse: Police Officer Scott Hampton threatened § 87(2)(b) with the use of force.	
M.POM Scott Hampton	Abuse: Police Officer Scott Hampton threatened § 87(2)(b) with the use of force.	
N.POM Scott Hampton	Discourtesy: Police Officer Scott Hampton spoke discourteously to § 87(2)(b)	
O.POM Scott Hampton	Discourtesy: Police Officer Scott Hampton spoke discourteously to § 87(2)(b)	
P.POM Scott Hampton	Discourtesy: Police Officer Scott Hampton spoke discourteously to § 87(2)(b)	
Q.POM Scott Hampton	Discourtesy: Police Officer Scott Hampton spoke discourteously to § 87(2)(b)	
R.POM Scott Hampton	Discourtesy: Police Officer Scott Hampton spoke discourteously to § 87(2)(b)	
S.POM Scott Hampton	Discourtesy: Police Officer Scott Hampton spoke discourteously to § 87(2)(b)	
T.POM Scott Hampton	Discourtesy: Police Officer Scott Hampton spoke discourteously to § 87(2)(b)	

Case Summary

On June 12, 2019, § 87(2)(b) submitted this complaint with the CCRB over the telephone.

At approximately 4:53 a.m. on May 26, 2019, there was a birthday party at § 87(2)(b) Queens for § 87(2)(b). In attendance were § 87(2)(b) and § 87(2)(b). A 9-1-1 call was placed regarding smoke coming from the basement of the location. Multiple FDNY firefighters responded to the location and broke the front basement door. PO Scott Hampton and PO Arkim Jordan from the 115th Precinct responded to the location and followed the firefighters through the open basement door (**Allegations A and B: Abuse of Authority** – § 87(2)(g)). At the rear yard PO Hampton told § 87(2)(b) they would issue a summons if officers should be called back to the location (**Allegation C: Abuse of Authority** – § 87(2)(g)). PO Hampton and PO Jordan left the location. At approximately 5:30 a.m. PO Hampton and PO Jordan responded to a noise complaint at the same location and entered the basement door (**Allegations D and E: Abuse of Authority** – § 87(2)(g)). PO Hampton asked for ID and told § 87(2)(b) he would arrest her if no one produced an ID (**Allegation F: Abuse of Authority** – § 87(2)(g)). PO Hampton pulled out his pepper spray and pointed it at § 87(2)(b) and § 87(2)(b) (**Allegations G-M: Abuse of Authority** – § 87(2)(g)). PO Hampton allegedly told § 87(2)(b) and § 87(2)(b) “Give me a fucking ID” (**Allegations N-T: Discourtesy** – § 87(2)(g)). § 87(2)(b) approached PO Hampton and he grabbed § 87(2)(b)'s arm and placed on handcuff on her wrist. § 87(2)(b) produced an ID and Police Officer Hampton issued § 87(2)(b) a summons. No arrests were made during this incident.

Two BWC files were received from the NYPD. Both body-worn cameras are turned on after the misconduct was alleged to have occurred.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Scott Hampton entered § 87(2)(b) in Queens.

Allegation (B) Abuse of Authority: Police Officer Arkim Jordan entered § 87(2)(b) in Queens.

§ 87(2)(b) in Queens is a three-floor multifamily building with a basement and rear yard. The front of the building has two doors facing the sidewalk. One door leads down a flight of steps where at the bottom are two additional doors that lead to a basement room with a couch. No individual resides in the basement. At the other side of the basement there is a set of stairs that lead to the rear yard of the building. The other front door leads to the building's common hallway where there is a door to the first-floor apartment. There is a staircase that leads to the second and third floor apartments. The rear yard is fenced in and can only be accessed through the basement or the first-floor apartment. Only the tenants of the building have the keys for both of the front door.

It is undisputed that a neighbor called 9-1-1 regarding smoke emanating from the basement of § 87(2)(b) in Queens. EVENTS (Board Review 01) noted a call about smoke emanating from the basement of § 87(2)(b). FDNY firefighters were the first on scene and it was a firefighter who broke the lock of basement door. Firefighters entered the basement door and walked through to the rear yard. PO Jordan and PO Hampton followed FDNY through the open basement and walked through to the rear yard. PO Hampton and PO Jordan left through the same door they entered.

§ 87(2)(b) in her sworn statement (Board Review 02) stated that she heard a knock from the front door and then a loud noise was heard from outside. § 87(2)(b) exited the main building door and observed PO Jordan and PO Hampton speaking with FDNY personnel outside on the sidewalk. § 87(2)(b) asked what had occurred and a firefighter told her someone had called about a fire. § 87(2)(b) told the firefighter that there was no fire. § 87(2)(b) did not have a conversation with PO Hampton or PO Jordan about entering the building. Neither PO Jordan or PO Hampton asked to enter the building.

§ 87(2)(b) in her sworn statement (Board Review 03) stated she was in the rear yard with multiple party goers. Multiple firefighters entered the rear yard followed by PO Hampton and PO Jordan. After approximately five minutes, PO Hampton and PO Jordan left through the basement door.

PO Hampton and PO Jordan in their testimony (Board Reviews 04 and 05) stated that they followed FDNY personnel through the basement door. Prior to entering the door, they did not speak to any civilian.

According to People vs. Greenleaf, 222 A.D.2d 838 (Board Review 06), a warrantless entry by police officers is permissible when there are “objective, empirical facts” for them to believe an emergency is at hand.

The investigation has determined, based on corroborating testimony and the EVENTS, that PO Hampton and PO Jordan responded to the location on the reasonable belief that there was a fire in the basement.

§ 87(2)(g)

Allegation (C) Abuse of Authority: Police Officer Scott Hampton threatened to issue summons to § 87(2)(b)

It is undisputed that § 87(2)(b) Queens, is in a residential neighborhood. § 87(2)(b) is the owner of the property and both § 87(2)(b) and § 87(2)(b) reside at the location. PO Hampton arrived at the location at approximately 4:53 a.m. In the rear yard there was a party with multiple party goers and loud music. In the rear yard PO Hampton spoke to § 87(2)(b) and told her if he came back again for the noise, he would issue a summons. At approximately 5:30 a.m. PO Hampton returned and issued § 87(2)(b) a summons.

A summons (Board Review 07) was issued to § 87(2)(b) later during the incident for prohibited noise.

According to NYPD Patrol Guide, section 214-23 (Board Review 08), unreasonable noise is any excessive loud sound that disturbs the peace, comfort or repose of a reasonable person. Upon determining the noise is unreasonable, a police officer shall issue a warning to correct the condition. If the condition continues, a summons may be issued.

The investigation determined that due to both the residential location and the early morning hour that the incident occurred, the noise was unreasonable. Because a summons could have been, and was later issued, PO Hampton was justified in warning § 87(2)(b) with a threat of summons to turn down the music.

§ 87(2)(g)

Allegation (D) Abuse of Authority: Police Officer Scott Hampton entered § 87(2)(b) in Queens.

Allegation (E) Abuse of Authority: Police Officer Arkim Jordan entered § 87(2)(b) in Queens.

It is undisputed that the front basement door had been locked prior to FDNY breaking the lock earlier in the incident. The only individuals who have access to the basement are the residents of the building and must have a key to open the basement. After it was determined that there was no fire, the party goers moved the party into the basement. PO Hampton and PO Jordan left the location after approximately five minutes. At approximately 5:30 a.m. PO Hampton and PO Jordan returned to the location for a 9-1-1 call about noise. PO Hampton and PO Jordan walked through the basement door that was previously broken by FDNY and walked down the basement steps until reaching the room in the basement. Neither PO Hampton nor PO Jordan knocked on the front basement door. No civilian was present at the front basement door prior to PO Hampton and PO Jordan walking in. It is to be determined whether crossing the threshold of the front basement door constituted an entry and if so, whether PO Hampton and PO Jordan were justified in a warrantless entry.

According to EVENTS and the Resource Recap Log (Board Reviews 01 and 07) the call for the noise complaint was made approximately 10 minutes prior to the call for the fire, but the call for the noise complaint was not assigned to PO Hampton and PO Jordan until after the call for the fire had been finalized.

§ 87(2)(b) and PO Jordan both stated (Board Reviews 03 and 05) that the front basement door, whose lock had been broken by FDNY, was closed but not locked upon the second arrival of PO Hampton and PO Jordan. PO Hampton and PO Jordan walked down the stairs and into the room in the basement. There was no conversation between any civilian and either PO Hampton or PO Jordan about entering the building or the basement room.

PO Hampton stated (Board Review 04) that the front basement door was unlocked and open upon arriving at the location. At the bottom of the basement steps, at the doors to the basement room

PO Hampton asked § 87(2)(b) if he could enter the room to discuss the incident. § 87(2)(b) agreed to allow PO Hampton to enter. PO Hampton was unable to recall exactly what § 87(2)(b) had said to him about entering.

The second time PO Hampton and PO Jordan responded to the location was for excessive noise. While the call itself was made prior to the call for the fire, the investigation determined that PO Hampton and PO Jordan were unaware of this at the time of the second arrival at the location. Due to the corroborating testimony of § 87(2)(b) and PO Jordan, the investigation credits that the front basement door was closed but not locked, and PO Hampton and PO Jordan entered into the room in the basement at the bottom of the stairs without having had any conversation with a civilian about entering. Thus, PO Hampton and PO Jordan did not have consent to enter the building or the basement room.

According to NYPD Patrol Guide, Section 214-23 (Board Review 08), a private premise is that which has closed door or locked gates that indicates that only invited guests are permitted entry and the owners and/or residents of the premises has an expectation of privacy. Police officers may not enter without a warrant unless consent is obtained or an exigency exists. Noise alone is not an exigency, and entry into private property for the purpose of abating noise is not authorized.

The investigation determined that the front basement door fulfills the requirements to be a private premise. If not for FDNY having broken the lock no more than 40 minutes before, the front basement door would have been locked and only accessible to residents of the location. PO Hampton and PO Jordan responded to the location the second time solely for a noise complaint and no exigency existed. PO Hampton and PO Jordan had not obtained any consent to enter prior to opening and walking through the front basement door. Upon responding to the location the second time, PO Hampton and PO Jordan were not justified in opening and walking through the front basement door.

§ 87(2)(g) .

Allegation (F) Abuse of Authority: Police Officer Scott Hampton threatened to arrest

§ 87(2)(b)

It is undisputed that while in the basement PO Hampton spoke to § 87(2)(b) and informed her that he was going to issue a summons. PO Hampton asked the party goers for an ID. The party goers did not have IDs on their persons because their personal belongings were upstairs in the apartments. § 87(2)(b) was beside PO Hampton and he grabbed her arm. PO Hampton told § 87(2)(b) that he would arrest her if he did not receive an ID. § 87(2)(b) provided PO Hampton an ID and a summons was issued to § 87(2)(b). No arrests were made.

PO Hampton stated (Board Review 04) that in the rear yard he was informed by a party goer that § 87(2)(b) and § 87(2)(b) were the owners. Upon arriving at the location the second time, the music could be heard from the street where he parked the patrol vehicle. The summons he was going to issue was for the noise. Because no party goer was providing an ID for the summons, he would make an arrest for the noise.

According to NYPD Patrol Guide, section 208-01 (Board Review 09), a warrantless arrest can be made for a violation made in the presence of a police officer.

PO Hampton had been informed that § 87(2)(b) was one of the building owners. Upon arriving at the location the party was still on going and music was playing causing loud noise. Because the loud noise was a violation, PO Hampton could have arrested the individual responsible for the loud noise. PO Hampton was justified in threatening § 87(2)(b).

§ 87(2)(g)

Allegation (G) Abuse of Authority: Police Officer Scott Hampton threatened § 87(2)(b) with the use of force.

Allegation (H) Abuse of Authority: Police Officer Scott Hampton threatened § 87(2)(b) with the use of force.

Allegation (I) Abuse of Authority: Police Officer Scott Hampton threatened § 87(2)(b) with the use of force.

Allegation (J) Abuse of Authority: Police Officer Scott Hampton threatened § 87(2)(b) with the use of force.

Allegation (K) Abuse of Authority: Police Officer Scott Hampton threatened § 87(2)(b) with the use of force.

Allegation (L) Abuse of Authority: Police Officer Scott Hampton threatened § 87(2)(b) with the use of force.

Allegation (M) Abuse of Authority: Police Officer Scott Hampton threatened § 87(2)(b) with the use of force.

It is undisputed that § 87(2)(b) and § 87(2)(b) PO Hampton and PO Jordan were in the basement room. PO Hampton removed his O.C. spray from his utility belt but did not use it. The manner in which the O.C. spray was held and who it was pointed at remains in dispute, and the reason why PO Hampton took the O.C. spray in his hand will be analyzed.

§ 87(2)(b) stated (Board Review 03) that when PO Hampton threatened to arrest her, the party goers began speaking loudly and yelling. None of the party goers threatened PO Hampton, nor did any of the party goers approach PO Hampton or PO Jordan. PO Hampton removed the O.C. spray, held it in one hand, and raised his arm up and away from his own body. PO Hampton moved the hand holding the O.C. spray back and forth pointing the O.C. spray at all the individuals in the room.

PO Hampton and PO Jordan stated (Board Reviews 04 and 05) that PO Hampton threatened § 87(2)(b) with arrest and the party goers began approaching them. The party goers stood around PO Hampton and PO Jordan approximately five feet away. Some party goers were quiet, others were asking why § 87(2)(b) was going to be arrested, and others were upset. PO Hampton and PO Jordan were the only two police officers on scene and were in an enclosed room with the party goers. PO Hampton feared for his safety and removed the O.C. spray and held it out in front of himself. The O.C. spray was held stationary. PO Hampton told all the party goers to stay back, or else he would use the O.C. spray.

The investigation determined that while it is in dispute whether the party goers moved closer to PO Hampton and PO Jordan, they did not make any physically threatening gestures or verbally threatening statements directed toward PO Hampton or PO Jordan. While it remains in dispute whether the O.C. spray was pointed at all the party goers in the basement room or it was held stationary, PO Hampton testified that he told all the individuals in the room he would use the O.C. spray if they did not move away. Thus, PO Hampton threatened all the party goers with the use of O.C. spray.

According to NYPD Patrol Guide, Section 221-07 (Board Review 10), the use of O.C. spray constitutes physical force. O.C. spray may be used to gain or maintain control of persons exhibiting active aggression, or to prevent physical injury to police officers.

Even if the investigation were to credit PO Hampton and PO Jordan's claims that the party goers approached them and questioned why PO Hampton was going to arrest § 87(2)(b) this does not constitute active aggression. The party goers were not threatening PO Hampton or PO Jordan nor were they posing a threat of physical injury. PO Hampton would not have been justified in using the O.C. spray against the party goers, and thus not justified in threatening them with it.

§ 87(2)(g)

Allegation (N) Discourtesy: Police Officer Scott Hampton spoke discourteously to § 87(2)(b)

Allegation (O) Discourtesy: Police Officer Scott Hampton spoke discourteously to § 87(2)(b)

Allegation (P) Discourtesy: Police Officer Scott Hampton spoke discourteously to § 87(2)(b)

Allegation (Q) Discourtesy: Police Officer Scott Hampton spoke discourteously to § 87(2)(b)

Allegation (R) Discourtesy: Police Officer Scott Hampton spoke discourteously to § 87(2)(b)

Allegation (S) Discourtesy: Police Officer Scott Hampton spoke discourteously to § 87(2)(b)

Allegation (T) Discourtesy: Police Officer Scott Hampton spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that (Board Review 03) that after PO Hampton stated he would arrest § 87(2)(b) and as he held the O.C. spray in his hand, PO Hampton told all the party goers, "Get back, get back! Give me an ID. I need a fucking ID."

PO Hampton stated (Board Review 04) that he did instruct the party goers to stay back. PO Hampton and PO Jordan (Board Review 05) denied he cursed during the incident. PO Hampton and PO Jordan denied saying "fuck" and denied or any other officer stated, "Give me a fucking ID."

It remains in dispute whether PO Hampton told the party goers, “Give me a fucking ID.” The investigation cannot determine by a preponderance of the evidence to corroborate or refute either party.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the only CCRB case to which either § 87(2)(b) or § 87(2)(b) have been a party (Board Review 11).
- PO Jordan has been a member-of-service for two years and has no prior CCRB allegations.
- PO Hampton has been a member-of-service for four years and has nine prior CCRB allegations in one case. § 87(2)(g)
 - In Case #201807936, allegations of physical force, entry of premises, search of premises, and threat of arrest were substantiated. The CCRB board recommended formalized training for all four allegations. The NYPD has not concluded their disposition on the matter.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- § 87(2)(b)
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- § 87(2)(b)
- § 87(2)(b)

§ 87(2)(b)

- On November 1, 2019, an email to the New York City Comptroller's Office was sent for a Notice of Claim request, and on November 8, 2019, an email was received advising that neither § 87(2)(b) or § 87(2)(b) filed any Notice of Claims against New York City (Board Review 20).

Squad No. 15

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date